



Town of Southern Shores

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Town of Southern Shores

Council Meeting

July 3, 2007

7:00 PM.-Pitts Center

The Southern Shores Town Council met on July 3, 2007 at the Pitts Center.

The following Council Members were present: Mayor Don Smith, Dan Shields, Jodi Hess, David Sanders, and Brian McDonald.

Also present were: Webb Fuller, Town Manager; Carrie Gordin, Town clerk; and Ike McRee, Town Attorney.

Mayor Smith called the meeting to order at 7:00 p.m., led the Pledge of Allegiance and held a moment of silence for the troops around the world and for those who died protecting us by honoring the 4th of July.

APPROVAL OF AGENDA

Mayor pro tem Shields moved to approve the agenda as presented. Mayor Smith seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders and McDonald voting aye; no Council Member voting no; and no Council Member absent.

GENERAL PUBLIC COMMENT

Mayor Smith opened the public comment section.

Judith Douglas, 238 N. Dogwood Trail, stated she was representing herself and four of her neighbors. She stated they can't sit outside due to road work being done on Red Bay Lane. She stated that they can't even open their windows. She stated the work begins at 7:15 a.m. and they work all day long. She stated she can't use her screened-in porch and it sounds like they are rebuilding the Town. She asked when the work will be done. The town manager stated that it is a 30-day contract and it started on June 11 and unless the contractor asks for an extension it should be completed by July 11th.

Hearing no other comments Mayor Smith closed the public comment section.

REPORTS

Planning Board

George Kowalski, chairman gave the Planning Board report for June 18, 2007.

Mayor pro tem Shields moved to set a public hearing on August 7 for Ordinance 2007-07-01 amending specific language regarding parking spaces as recommended by the planning board.

Council Member Hess seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders and McDonald voting aye; no Council Member voting no; and no Council Member absent.

[Clerk's Note: Planning Board Report for June 18, 2007 is attached hereto as Exhibit A].

Southern Shores Volunteer Fire Department-None

Police Department

Chief Kole presented the monthly report.

Mayor pro tem Shields asked Chief Kole if the police officer picked up the person they were looking for on Eagles Nest. Chief Kole said no but he is not dangerous, it was for a non-violent act. Mayor pro tem Shields asked that people keep their doors locked.

Mayor Smith asked about the speed checks on Hillcrest Drive and Sea Oats Trail with cut through traffic. Chief Kole stated that the department has a new computer program to be used with the radar trailer which will give better readings. He stated that it has been set up on Dogwood Trail and he will be reporting on the results.

MINUTES- June 5, 2007

Mayor pro tem Shields moved to approve the June 5, 2007 minutes as presented. Mayor Smith seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders and McDonald voting aye; no Council Member voting no; and no Council Member absent.

CONSENT AGENDA-None

OLD BUSINESS-None

NEW BUSINESS -None

OTHER ITEMS

Town Manager

Responsible Computer Usage Policy for employees

The town manager provided amended language following council's previous direction to the Responsible Computer Usage Policy for employees that reads *"Use of town computers, printer, accounts etc. is authorized for town related business. Town computers may be accessed by employees on a limited basis to check personal business activities or current event activities as long as these uses do not interfere with normal town business activities."*

Mayor pro tem Shields moved to approve the amended Responsible Computer Usage Policy for employees. Council Member Hess seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders and McDonald voting aye; no Council Member voting no; and no Council Member absent.

[Clerk's Note: The amended Responsible Computer Usage Policy is attached hereto as Exhibit B].

Retiree Health Benefits

Mayor pro tem Shields moved to excuse Mayor Smith from this portion of the agenda. Council Member Hess seconded. The motion passed with Council Members Shields, Hess, Sanders and McDonald voting aye; Mayor Smith not voting. Mayor Smith left the room.

The town manager presented materials at the June 26 council meeting to ask council for direction on the adopted language for retiree health benefits as found in the 2004 minutes. Following that discussion he presented amended language for consideration. He stated that he needs to be able to explain to the employees, since there are different opinions from the employees, on what it means. His proposed language states a retired employee's health insurance premium will be paid by the town if the employee has met the Local Government Employees Retirement System (LGERS) eligibility requirement, is receiving service retirement benefits from the LGERS and has worked with the Town of Southern Shores ten (10) years.

Following discussion the language was changed to include a retired employee's health insurance premium will be paid by the town if the employee has met the LGERS eligibility requirement, is receiving service retirement benefits from the LGRS and has worked with the Town of Southern Shores *for a minimum of* ten (10) years.

The town manager stated years of service would be accumulative. Council agreed.

The town manager stated that some additional issues need to be addressed and he will bring those to the July 24 meeting.

Mayor pro tem Shields moved to approve the language as amended. Council Member Hess seconded. The motion passed with Council Members Shields, Hess, Sanders and McDonald voting aye; Mayor Smith not voting.

Council Member McDonald stated he is concerned, as he addressed before, since he was not involved initially, if employees were of a different understanding than what this is determining for existing employees then it may not be fair but if everyone is good with this then he is also.

The town manager stated that he needs a determination from council due to existing employee's different understanding of the policy.

Mayor pro tem Shields stated that he would not have approved health benefits to someone who worked for the town for ten years without it being tied to the retirement system, they go hand and hand.

Council Member Hess stated at the time of the change an employee was retiring and that is why it was discussed.

Mayor Smith returned to the meeting.

Town Attorney-None

Mayor

Mayor stated he has received calls about the adopted budget and there is a letter to the editor in the Coastland Times from a citizen unhappy about the budget increase. He read a letter he received from a property owner disappointed in the council's decision to raise taxes and the

impact the increase would have on this individual as well as others and requested that council hold the tax rate next year.

He stated the article entitled "a small tax increase" in the Coastland Times does not explain taxes were raised fifteen percent and forty percent over the last four years. He stated this is seven and one half times more than the inflation rate. He stated the budget was approved by a three to two vote with Council members Sanders, Hess and Shields voting for the increase and McDonald and himself voting against it. He asked the citizens to take the opportunity to vote to change the direction of council. He stated that November 6 will be Independence Day for the town.

Council

Council Member McDonald asked the town manager how the canal project is going. The town manager explained following the last Tuesday meeting with all the resource agencies George Wood of EPI has been contacted and the submerged aquatic vegetation study and soil studies will begin on Thursday and permit application may begin in two weeks.

Mike Hejduk stated he talked to Mr. Wood and was told the SEPA will not be required.

Council Member Sanders addressed questions on the budget at the Mayor's Chat from Kevin Stroud. He stated if you look at last year's budget it is \$200,000 under last year's budget but not low enough to lower taxes to revenue neutral. He stated one vacant position in the police department was eliminated, some issues were discussed and other cuts were made. He stated this is the first year the undesignated fund balance was not used to balance the budget. He stated that reduction by the department heads was discussed. He stated there is a revenue reduction due to land values, taxes etc. being down. He stated that the seventy-five percent for the undesignated fund balance was decided by all of Council. He stated that currently it is at fifty-eight percent. He stated that he is unsure of what it should be and it was discussed during the budget workshop.

He stated that historically the town has always dipped into the fund balance. He stated we could not come up with a neutral tax rate without reducing services. He stated when it comes to other towns and service we are very different and can't compare. We are too dependent on real estate taxes, only thirty-eight percent of the town expenses are paid with ad valorem taxes. He stated that other town's finance their department needs or use from the fund balance. This town does provide services that other towns don't; however, we don't have a capital improvement plan, our fund balance has played that role.

Kevin Stoud stated that his biggest disappointment is why council didn't consider keeping a neutral tax rate and use the fund balance for the Red Bay Lane project. He stated he appreciates all the work council has done but he attended the budget workshops and council did not discuss this. He is disappointed that there has been a forty percent tax increase over the last four years and that council took fifteen minutes to approve the budget with a .0975 tax rate.

Mayor pro tem Shields stated the Red Bay Lane project was decided way before this budget and will be paid from the 2006-07 budget.

Mayor Smith stated that he did bring up that he felt Red Bay was an emergency and recommended using the fund balance during budget discussion.

Council Member Hess stated that council talked the budget to death and it was the longest budget process she has been in. She stated the vote on the budget was done quickly because many things had already been discussed. She stated staff had worked very hard on this budget and did a great job. She stated that she did not feel Red Bay Lane was an emergency to be taken out of the undesignated fund balance. The roving lifeguard is a shared person with the Town of Duck, there

are more and more people on the beach and it made sense to add this person for the safety of the citizens. She stated that she doesn't like the overtones she is hearing that council served their own personal views. She stated that she did listen to the people, people wanted the chipping program. She did not hear about lowering taxes, people want things the way they are. She stated that Duck does not have streets to maintain or a public works department. She stated that Duck has fees to offset the lower tax rate. She stated next year they may have to raise taxes. She stated it was a very hard decision and she is sorry she couldn't please every one. She stated that she loves the town and the way it looks and she wants to keep it that way.

Mayor pro tem Shields stated he has nothing to add.

GENERAL PUBLIC COMMENT


Mayor Smith opened the public comment section.

Ed Cowell, 133 Beech Tree Trail, stated he would like to commend those three council members that voted for the tax increase. He stated that he served on a condo board and knows what it is to increase fees and get complaints. He stated he loves Southern Shores and wants to maintain the services we have.

Pat Storey, 362 Sea Oats Trail, announced there is a memorial service being held on Friday at the Holy Redeemer Church for Larry Bria. She stated that he was a reporter with the Outer Banks Sentinel who covered the town.

Hearing no other comments Mayor Smith closed the public comment section.

Hearing no other business Mayor Smith moved to adjourn the meeting at 7:50 p.m. Council Member McDonald seconded. The motion passed with Mayor Smith and Council Members Shields, Hess, Sanders and McDonald voting aye; no Council Member voting no; and no Council Member absent.

ATTEST

Don Smith, Mayor

Respectfully submitted:


Carrie Gordin, Town Clerk

Exhibit A

To: Southern Shores Town Council
CC: Town Manager
From: George Kowalski, Chairman, Planning Board
Date: 6/23/2007
Re: Recap, Planning Board Meeting of June 18, 2007

Planning Board recommended actions for the Town Council:

1. Approve Ordinance No. 2007-06-PB04, Definition of Specific Terms.

Organization: Chairman Kowalski called the meeting to order at 7:00 PM. Planning Board members George Kowalski, Georgine Poisal, Jay Russell, Dave Peckens, Joe Walter, Alternate Jim Connors and Alternate Nancy Wendt, were present, ETJ Representative Ed Overton was absent with excuse. Also in attendance were the Code Enforcement Administrator Mike Hejduk and Administrative Support Assistant Cyndy Gabrys.

Approval of Agenda: Agenda approved

Approval of Minutes: The Planning Board meeting minutes of April 16, 2007 and May 21, 2007 were approved with minor corrections.

Public Comment: There was no public comment.

Committee Reports:

The **Stormwater Management Advisory Committee** report was presented by Jay Russell who gave a quick overview of the Stormwater questions that have been presented to the Town Council for discussion and action.

The **Hazard Mitigation Plan Committee** report was given by Mike Hejduk. He stated that the Council has been making decisions as to which aspects of this plan are applicable to the Town.

The **Vegetative Advisory Committee** report was given by Jim Connors who stated that he will need to get the Vegetative Committee to sit down with the Planning Board and discuss a new vegetative ordinance proposal. A meeting time was scheduled for August 07, 2007 at 2:00 PM at the Pitts Center.

The **Land Use Plan/ Steering Committee:** This committee had no new news since it had not met since the last Planning Board meeting.

Applications:

- 1. 2007-06-PB03 –Zoning Map/ Ordinance Change: Government and Institutional District Zone.** Attorney Robert L. Outten, representing the Outer Banks Community Foundation, appeared before the Planning Board requesting that a small section of Skyline Drive and the Town's property be rezoned from an RS-1 zone to a newly designated "Government and Institutional Zone." The request was being made so that a house and property at 13 Skyline Drive, being donated to the foundation, could be used as office space. However, the property in question, currently owned by Dr. John Tietjen, is in legal dispute. Southern Shores Realty claims that a 14 foot by 150 ft section is deeded to them and is part of a paper road. This road is an entrance to the Southern Shores Realty property that is behind the Tietjen property. Mike Stone, representing Southern Shores Realty, objected to the proposed change in zoning.

Staff was not agreeable to the zoning change and felt that creating a new category called "community non-profit organization" within the RS-1 zoning district and listing it as a conditional use, within Section 7.01.C.1, was a much better solution. After polling the Planning Board, the Outer Banks Community Foundation asked that their request be tabled so that they could work with Mike Hejduk with his RS-1 conditional use proposal, work with Southern Shores Realty to find a mutually acceptable solution to the property dispute, and notify and speak to other property owners that may be affected by this zoning change. The Planning Board agreed and the request was tabled.

Other Business

Old Business

- 1. Ordinance No. 2007-06-PB04: Definition of Specific Terms.** The purpose of this ordinance is to amend section 3.02 of the Southern Shores Zoning ordinance to define a Parking Space as "A vehicular storage space plus the necessary access space." It changes the General Provisions, Section 6.01, to stipulate single-family residential homes are excluded and corrects the definition of a drive aisle width as a minimum of twenty two feet.

Subsequent to discussion, the Board, by motion, unanimously approved, that the Town Council adopts proposed Ordinance No. 2007-06-PB04.

New Business:

1. George Kowalski and Georgine Poisal were re-elected unanimously to the positions of Chairman and Vice-Chairman respectively.

Other Items:

There were no other items presented by Planning Board members.

The Chairman announced that a Wireless Committee meeting would be held on June 19, 2007 at 2:00 PM in the Pitts Center. He also noted that the Council will be deciding if a road committee is needed.

Mike Hejduk discussed the following three topics:

1. With regards to Home Occupation enforcement, a new complaint form has been created and a decision will be made on how home owners will be made aware of the current new Home Occupation ordinance.
2. A Canal Dredging meeting will be held on Thursday, June 21, 2007 with State officials.
3. The Cove is progressing towards a building permit, while the MarketPlace, the Dogwood dentist office, and My Home constructions are currently underway.

Announcements:

Next regular meeting: Monday, July 16, 2007, 7:00PM Pitts Center

Adjournment: Upon motion, the Planning Board meeting adjourned.

Exhibit B

RESPONSIBLE COMPUTER USAGE

1. ~~Personal use of the Town's computer system is expressly prohibited. Employees may not use the computer system, software, printers, accounts etc. for personal use. Employees may not utilize any personal or outside accounts when using the computer system.~~ Use of town computers, printer, accounts etc. is authorized for town related business. Town computers may be accessed by employees on a limited basis to check personal business activities or current event activities as long as these uses do not interfere with normal town business activities.
2. All employees with access to a computer also have access to the Town's internal and internet e-mail system. The judicious use of e-mail can promote efficiency, but the system can also be abused. Please use these systems selectively. Do not flood your fellow employees with unnecessary or repetitive messages. An employee who receives an e-mail message that is not related to the work of the Town shall not forward the message to anyone else inside or outside of the Town unless directed to do so by the Town Manager.
3. All computer files and e-mail messages are Town records. The Town reserves the right to access and disclose all files and messages sent over its electronic systems for any purpose. The Town retains the right to access an employee's files and e-mail at

any time for any reason without notice to the employee. Employees should not expect that computer files or e-mail messages are confidential or private.

4. No employee shall subscribe to any e-mail mailing list ("listserv") without the prior consent of the Town Manager. Such authorization will only be given after demonstration of (1) the benefit of the work-related mailing list to the Town and (2) the average of number of messages to be received per day from the mailing list.
5. No e-mail messages containing advertising shall be sent by any e-mail user in the Town to anyone else inside or outside of the Town. If you receive any unsolicited e-mail messages containing advertising, you should delete them immediately. Do not send a reply e-mail message to request that you be removed from the advertiser's mailing list. Doing so only verifies that you have a valid e-mail address and this might cause you to receive even more unsolicited e-mail advertising.
6. Employees are prohibited from accessing each other's e-mail without the express consent of the other employee.
7. Users may not use the computer system to purchase any goods or services without the express authorization of the Town Manager.
8. ~~Employees are strictly prohibited from sending e-mail messages of a harassing, intimidating, irresponsible, offensive, or discriminatory nature. Such conduct, or any other conduct in violation of this e-mail policy, may result in immediate dismissal or other disciplinary measures.~~